

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 Daniel Robbins,

4 Petitioner,

5 v.

6 Jerry Howell, et al.,

7 Respondents.

Case No. 2:19-cv-2153-APG-VCF

ORDER

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9 On February 3, 2020, I denied petitioner Daniel Robbins' motion to proceed *in forma*
10 *pauperis* and directed him to pay the filing fee in order to proceed with his petition for writ of
11 habeas corpus. ECF No. 5. He has complied with that order and paid the required fee. ECF No.
12 6. I have reviewed the petition under Habeas Rule 4, and the petition shall be filed herein and
13 served upon the respondents.

14 A petition for federal habeas corpus should include all claims for relief of which
15 petitioner is aware. If a petitioner fails to include such a claim in his petition, he may be forever
16 barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2244(b) (successive
17 petitions). If Robbins is aware of any claim not included in his petition, he should notify the
18 court of that as soon as possible, perhaps by means of a motion to amend his petition to add the
19 claim.

20 In addition, Robbins has filed a motion for the appointment of counsel. ECF No. 1-3/4.
21 Under 18 U.S.C. §3006A(a)(2)(B), I have discretion to appoint counsel when I determine the
22 "interests of justice" require representation. There is no constitutional right to appointed counsel
23 for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555(1987); *Bonin*

1 *v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally
2 discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986); *Bashor v. Risley*, 730 F.2d
3 1228, 1234 (9th Cir. 1984). However, counsel must be appointed if the complexities of the case
4 are such that denial of counsel would amount to a denial of due process, and where the petitioner
5 is a person of such limited education as to be incapable of fairly presenting his claims. *See*
6 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The
7 petition in this action is sufficiently clear in presenting the issues that Robbins wishes to bring.
8 Also, the issues in this case are not particularly complex. It does not appear that appointment of
9 counsel is warranted in this instance. Robbins' motion for the appointment of counsel is denied.

10 I THEREFORE ORDER the Clerk to FILE the petition for writ of habeas corpus and
11 exhibits (ECF No. 1-1/2) and motion for appointment of counsel (ECF Nos. 1-3, 1-4) and
12 ELECTRONICALLY SERVE the petition and a copy of this order on the respondents.

13 I FURTHER ORDER the Clerk to add Aaron D. Ford, Attorney General of the State of
14 Nevada, as counsel for respondents.

15 I FURTHER ORDER that the respondents shall have 60 days from the date of entry of
16 this order to appear in this action, and to answer or otherwise respond to the petition.

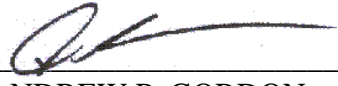
17 I FURTHER ORDER that if the respondents file an answer, Robbins shall have 60 days
18 from the date on which the answer is served on him to file and serve a reply. If the respondents
19 file a motion to dismiss, Robbins shall have 60 days from the date on which the motion is served
20 on him to file and serve a response to the motion to dismiss, and the respondents shall have 30
21 days to file a reply in support of the motion.

22 I FURTHER ORDER that any additional state court record exhibits filed by either
23 Robbins or the respondents shall be filed with a separate index of exhibits identifying the

1 exhibits by number. The CM/ECF attachments that are filed further shall be identified by the
2 number or numbers of the exhibits in the attachment. The hard copy of any additional state court
3 record exhibits shall be forwarded – for this case – to the staff attorneys in **Reno**.

4 I FURTHER ORDER that Robbins’ motion for appointment of counsel (**ECF Nos. 1-3,**
5 **1-4) is DENIED.**

6 Dated: February 24, 2020.

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9 ANDREW P. GORDON
10 UNITED STATES DISTRICT JUDGE
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